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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

SOHIAL AROUT,

Plaintiff and Appellant,

v.

BARRY H. LAMEL, Individually and as
Trustee, etc., et al.,

Defendants and Respondents.

B257213

(Los Angeles County
Super. Ct. No. BC481043)

APPEAL from an order of the Superior Court of Los Angeles County. Terry A. Green, Judge. Affirmed.

Sohial Arout, in pro. per., for Plaintiff and Appellant.

Early, Maslach & O'Shea, John A. Peterson; Law Office of Priscilla Slocum and Priscilla Slocum for Defendants and Respondents.

Plaintiff and appellant Sohial Arout challenges a trial court order awarding attorney fees and costs to defendants and respondents Barry H. Lamel, individually and as trustee of the Barry H. Lamel Trust. Although his appellate opening brief is difficult to discern, it seems that appellant is improperly attempting to relitigate issues already decided against him.

We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Appellant brought suit against respondents for breach of lease, malicious prosecution, wrongful eviction, and declaratory relief. Pursuant to Code of Civil Procedure section 425.16, California's anti-SLAPP¹ statute, respondents filed a special motion to strike, which the trial court granted. Appellant appealed, and on October 29, 2013, we affirmed the trial court's order, agreeing that the causes of action were all based upon the same central allegations that arose out of a prior unlawful detainer action. (*Arout v. Lamel* (Oct. 29, 2013, B242873) [nonpub. opn.] (*Arout I.*)) In our opinion, we expressly determined that respondents were "entitled to recover attorney fees and costs on appeal, in an amount to be determined by the trial court on remand." (*Arout I.*, B242873, *supra*, at p. 12.) On January 28, 2014, this court issued the remittitur, reiterating that respondents are "entitled to recover attorney fees and costs on appeal, in an amount to be determined by the trial court on remand."

Consistent with our opinion, on February 28, 2014, respondents filed a timely motion for attorney fees and a memorandum of costs, seeking attorney fees and costs on appeal. Appellant opposed the motion, improperly seeking to relitigate the claims decided against him in *Arout I.*

After considering the moving papers and oral argument, the trial court granted respondents' motion, awarding attorney fees and costs in the amount of \$21,976.22.

¹ SLAPP is an acronym for strategic lawsuit against public participation. (*Wilcox v. Superior Court* (1994) 27 Cal.App.4th 809, 813, overruled in part on other grounds in *Equilon Enterprises v. Consumer Cause, Inc.* (2002) 29 Cal.4th 53, 68, fn. 5.)

This timely appeal ensued.

DISCUSSION

I. Standard of Review

We review the trial court's order awarding attorney fees and costs for abuse of discretion. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132.)

II. The Trial Court Did Not Err

In *Arout I*, we expressly determined that respondents were entitled to recoup attorney fees and costs on appeal and remanded the matter to the trial for a determination of the amount of those fees and costs. (*Arout I*, B242873, *supra*, at p. 12.) The trial court was bound to follow our instructions (*Benson v. Greitzer* (1990) 220 Cal.App.3d 11, 14), and it did: Respondents moved for attorney fees and costs, appellant was given the opportunity to oppose the motion, which he did, and the trial court entertained oral argument. Thereafter, it awarded respondents attorney fees and costs.

Appellant has not directed us to any error in that decision or any abuse of discretion. Instead, in his rambling and largely unintelligible appellate opening brief, he primarily challenges the propriety of respondents' anti-SLAPP motion and attempts to relitigate issues decided against him. Pursuant to the doctrines of res judicata and law of the case, he cannot do so. (*Vargas v. City of Salinas* (2011) 200 Cal.App.4th 1331, 1132; *Hutton v. Hafif* (2007) 150 Cal.App.4th 527, 550.)

It follows that we deny appellant's request for judicial notice. The items therein are not relevant to the issue in this case—whether the trial court abused its discretion in awarding attorney fees and costs to respondents. (*Seelig v. Infinity Broadcasting Corp.* (2002) 97 Cal.App.4th 798, 812, fn. 8.)

Notably, nowhere in the appellate opening brief does appellant challenge the reasonableness of the attorney fee award. Thus, we need not consider respondents' forfeiture argument.

In addition to filing a respondents' brief, respondents filed a motion for attorney fees and costs on appeal, asking that (1) they be awarded attorney fees and costs on

appeal, and (2) we set the amount of recoverable attorney fees and costs, as opposed to sending the matter back to the trial court for yet another hearing.

Respondents are entitled to recover attorney fees and costs on appeal. (*Lunada Biomedical v. Nunez* (2014) 230 Cal.App.4th 459, 489.) The amount, however, must be set by the trial court. (*Ibid.*) While we are sympathetic to respondents and well-aware of appellant's antics throughout this litigation, we see no reason why the trial court cannot set the amount of attorney fees. Unlike the circumstances in *Mann v. Quality Old Time Service, Inc.* (2006) 139 Cal.App.4th 328, 346, the trial court here has firsthand knowledge of this case and the attorneys' work.

That said, should appellant engage in unlawful litigation tactics, he is cautioned that he may face penalties and sanctions in addition to an award of attorney fees and costs.

DISPOSITION

The trial court's order awarding attorney fees and costs to respondents is affirmed. Respondents are entitled to recover attorney fees and costs incurred on this appeal, in an amount to be determined by the trial court on remand.

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_____, J.
ASHMANN-GERST

We concur:

_____, P. J.
BOREN

_____, J.
CHAVEZ